Council Regulation (EU) No 1290/2014 of 4 December 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and amending Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014

COUNCIL REGULATION (EU) No 1290/2014

of 4 December 2014

amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and amending Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision 2014/872/CFSP of 4 December 2014 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and Decision 2014/659/CFSP amending Decision 2014/512/CFSP[(1)],

Having regard to the joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

Whereas:

(1) On 31 July 2014, the Council adopted Regulation (EU) No 833/2014[(2)] concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

(2) On 8 September 2014, the Council adopted Regulation (EU) No 960/2014[(3)] amending Regulation (EU) No 833/2014.

(3) On 4 December 2014 the Council adopted Decision 2014/872/CFSP.

(4) These measures fall within the scope of the Treaty and, therefore, particularly with a view to ensuring its uniform application in all Member States, regulatory action at the level of the Union is necessary, following the adoption of Decision 2014/872/CFSP.

(5) Regulations (EU) No 833/2014 and (EU) No 960/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 833/2014 is amended as follows:

(1) in Article 2(2), the second subparagraph is replaced by the following:

> The competent authorities may, however, grant an authorisation where the export concerns the execution of an obligation arising from a contract concluded

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before 1 August 2014, or ancillary contracts necessary for the execution of such a contract.;

(2) in Article 2a, paragraph 3 is replaced by the following:

3. The prohibitions in paragraphs 1 and 2 shall be without prejudice to the execution of contracts concluded before 12 September 2014, or ancillary contracts necessary for the execution of such contracts, and to the provision of assistance necessary for the maintenance and safety of existing capabilities within the EU.;

(3) in Article 3, paragraphs 1 to 5 are replaced by the following:

1. A prior authorisation shall be required for the sale, supply, transfer or export, directly or indirectly, of items as listed in Annex II, whether or not originating in the Union, to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or in any other State, if such items are for use in Russia, including its Exclusive Economic Zone and Continental Shelf.

2 For all sales, supplies, transfers or exports for which an authorisation is required under this Article, such authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be in accordance with the detailed rules laid down in Article 11 of Regulation (EC) No 428/2009. The authorisation shall be valid throughout the Union.

3 Annex II shall include certain items suited to the following categories of exploration and production projects in Russia, including its Exclusive Economic Zone and Continental Shelf:

a oil exploration and production in waters deeper than 150 metres;

b oil exploration and production in the offshore area north of the Arctic Circle; or

c projects that have the potential to produce oil from resources located in shale formations by way of hydraulic fracturing; it does not apply to exploration and production through shale formations to locate or extract oil from non-shale reservoirs.

4 Exporters shall supply the competent authorities with all relevant information required for their application for an export authorisation.

5 The competent authorities shall not grant any authorisation for any sale, supply, transfer or export of the items included in Annex II, if they have reasonable grounds to determine that the sale, supply, transfer or export of the items are destined for any of the categories of exploration and production projects referred to in paragraph 3.

The competent authorities may, however, grant an authorisation where the sale, supply, transfer or export concerns the execution of an obligation arising from a contract concluded before 1 August 2014, or ancillary contracts necessary for the execution of such a contract.

The competent authorities may also grant an authorisation where the sale, supply, transfer or export of the items is necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment. In duly justified cases of emergency, the sale, supply, transfer or export may proceed without prior authorisation, provided that the exporter notifies the competent authority within five working days after the sale, supply, transfer or export

has taken place, providing detail about the relevant justification for the sale, supply, transfer or export without prior authorisation.;

(4) in Article 3a, paragraphs 1, 2 and 3 are replaced by the following:

1. It shall be prohibited to provide, directly or indirectly, associated services necessary for the following categories of exploration and production projects in Russia, including its Exclusive Economic Zone and Continental Shelf:

a oil exploration and production in waters deeper than 150 metres;

b oil exploration and production in the offshore area north of the Arctic Circle; or

c projects that have the potential to produce oil from resources located in shale formations by way of hydraulic fracturing; it does not apply to exploration and production through shale formations to locate or extract oil from non-shale reservoirs.

For the purpose of this paragraph, associated services shall mean:

(i) drilling;

(ii) well testing;

(iii) logging and completion services;

(iv) supply of specialised floating vessels.

2 The prohibitions in paragraph 1 shall be without prejudice to the execution of an obligation arising from a contract or a framework agreement concluded before 12 September 2014 or ancillary contracts necessary for the execution of such a contract.

3 The prohibitions in paragraph 1 shall not apply where the services in question are necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment.

The service provider shall notify the competent authority within five working days of any activity undertaken pursuant to this paragraph, providing detail about the relevant justification for the sale, supply, transfer or export.;

(5) in Article 4, paragraphs 2 and 3 are replaced by the following:

2. The prohibitions in paragraph 1 shall be without prejudice to the execution of contracts concluded before 1 August 2014, or ancillary contracts necessary for the execution of such contracts, and to the provision of assistance necessary for the maintenance and safety of existing capabilities within the EU.

3 The provision of the following shall be subject to an authorisation from the competent authority concerned:

a technical assistance or brokering services related to items listed in Annex II and to the provision, manufacture, maintenance and use of those items, directly or indirectly, to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or, if such assistance concerns items for use in Russia, including its Exclusive Economic Zone and Continental Shelf, to any person, entity or body in any other State;

b financing or financial assistance related to items referred to in Annex II, including in particular grants, loans and export credit insurance, for any sale,

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supply, transfer or export of those items, or for any provision of related technical assistance, directly or indirectly, to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or, if such assistance concerns items for use in Russia, including its Exclusive Economic Zone and Continental Shelf, to any person, entity or body in any other State.

In duly justified cases of emergency referred to in Article 3(5), the provision of services referred to in this paragraph may proceed without prior authorisation, on condition that the provider notifies the competent authority within five working days after the provision of services.;

(6) in Article 5, paragraph 3 is replaced by the following:

3. It shall be prohibited to directly or indirectly make or be part of any arrangement to make new loans or credit with a maturity exceeding 30 days to any legal person, entity or body referred to in paragraph 1 or 2, after 12 September 2014.

The prohibition shall not apply to:

a loans or credit that have a specific and documented objective to provide financing for non-prohibited imports or exports of goods and non-financial services between the Union and any third State, including the expenditure for goods and services from another third State that is necessary for executing the export or import contracts; or

b loans that have a specific and documented objective to provide emergency funding to meet solvency and liquidity criteria for legal persons established in the Union, whose proprietary rights are owned for more than 50 % by any entity referred to in Annex III.;

(7) in Article 5, the following paragraph is added:

4. The prohibition in paragraph 3 shall not apply to drawdown or disbursements made under a contract concluded before 12 September 2014 provided that the following conditions are met:

a all the terms and conditions of such drawdown or disbursements:

(i) were agreed before 12 September 2014; and

(ii) have not been modified on or after that date; and

b before 12 September 2014 a contractual maturity date has been fixed for the repayment in full of all funds made available and for the cancellation of all the commitments, rights and obligations under the contract.

The terms and conditions of drawdowns and disbursements referred to in point (a) include provisions concerning the length of the repayment period for each drawdown or disbursement, the interest rate applied or the interest rate calculation method, and the maximum amount.;

(8) Annex II is amended as follows:

(a) in the heading, the reference ‘List of technologies referred to in Article 3’ is replaced by ‘List of items referred to in Article 3’;

(b) the entries for CN codes 8413 50, 8413 60, ex 8431 39 00, ex 8431 43 00, ex 8431 49 are replaced by the following: